

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

BENNIE BEARD,

Plaintiff,

v.

JOHN SIVI and FRANK ZDANKIEWICZ,

Defendants.

Case Number 06-13715

Honorable David M. Lawson

Magistrate Judge Mona K. Majzoub

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**ORDER ADOPTING REPORT AND RECOMMENDATION**

Presently before the Court is the report issued on December 3, 2007, by Magistrate Judge Mona K. Majzoub pursuant to 28 U.S.C. § 636(b) recommending that this Court deny the defendants' motion for summary judgment. Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within ten days of service of the report, no objections have been filed. The parties' failure to file objections to the Report and Recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases the Court from its duty to independently review the motion. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the Magistrate Judge.

Accordingly, it is **ORDERED** that the Magistrate Judge's Report and Recommendation [dkt # 43] is **ADOPTED**.

It is further **ORDERED** that the defendants' motion for summary judgment [#40] is **DENIED**.

It is further **ORDERED** that the matter is **REFERRED** to the Magistrate Judge for further proceedings in accordance with the Order of Reference previously filed.

s/David M. Lawson  
DAVID M. LAWSON  
United States District Judge

Dated: April 9, 2008

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on April 9, 2008.

s/Felicia M. Moses  
FELICIA M. MOSES